

Issued in Renton, Washington, on December 27, 1994.

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Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-176 Filed 1-4-95; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141, 375, and 385

[Docket No. RM93-20-000]

Electronic Filing of FERC Form No. 1 and Delegation to Chief Accountant Order No. 574

Issued December 29, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to provide for the electronic filing of FERC Form No. 1, Annual Report of Major electric utilities, licensees and others. Commencing with the report for reporting year 1994, due on or before April 30, 1995, filing will be required in the form of a computer diskette in addition to the currently required number of paper copies. No changes are being made to the FERC Form No. 1 itself. The Commission has concluded that the automation of Form 1 filing will yield significant benefits, including more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design, and overall reduction of reporting burden.

EFFECTIVE DATE: This rule is effective February 6, 1995.

FOR FURTHER INFORMATION CONTACT:

Richard Mattingly (Legal Information), Electric Rates and Corporate Regulation, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 208-2070

Robert J. Lynch (Technical Information), Office of Chief Accountant, Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C. 20426, (202) 219-3012

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this

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Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

Electronic Filing of FERC Form No. 1 and Delegation to Chief Accountant; Docket No. RM93-20-000.

Order No. 574 Final Rule

Issued December 29, 1994.

I. Introduction

On July 23, 1993, the Federal Energy Regulatory Commission (Commission) issued a notice of proposed rulemaking (NOPR)¹ in which the Commission proposed to amend 18 CFR Parts 141 and 385 to provide for the electronic filing of FERC Form No. 1, "Annual Report of Major electric utilities, licensees and others" (Form 1). Under the proposed rule, in addition to paper copies, future Form 1 filings would also be made by means of a computer diskette incorporating software programming developed by the Commission. Electronic reporting of Form 1 was proposed to commence with reporting year 1993, due on or before April 30, 1994. No change was proposed in Form 1 itself.

Interested parties were requested to submit written comments. Comments were received from numerous electric utilities, industry associations, and the Energy Information Administration of the United States Department of Energy. On December 30, 1993, the Commission issued a Notice of Intent to Act and

Response to Comments (Notice).² The Commission deferred issuance of a final rule pending development and testing of the necessary software. The Commission stated that it anticipated that the development and testing process would be complete in time for the electronic filing of Form 1 for report year 1994, due on or before April 30, 1995. The Commission also stated its views on a number of issues raised by the commenters.³ The procedures outlined in the Notice have been successfully completed, and the Commission is now adopting a final rule amending its regulations to provide for the electronic filing of Form 1 and also for the delegation of authority to the Chief Accountant or his designee to rule on requests for waiver of the electronic filing requirements.

II. Public Reporting Burden

The current annual reporting burden for the industry for collection of information is estimated to be 235,000 hours for the Form 1. The industry burden is based on an estimate of 1,217 average hours on an annual basis for the 193 entities which complete a Form 1 filing. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The Commission anticipates that any increase in reporting burden for collection of information from this rule will be minimal. Initially, there may be some increase in reporting burden as respondents develop procedures and adapt equipment to implement electronic filing. However, for the last several years, most Form 1 respondents have already prepared their Form 1 paper copies from computer-based systems. This rule will thus result largely in a standardization of preparing and filing the form electronically.

Send comments regarding reporting burden or any other aspect of the Commission's collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, D.C. 20426 (Attention: Michael Miller, Information Services Division, 202-208-1415), and to the Office of

² 59 FR 1687 (Jan. 12, 1994). In an order issued concurrently, on December 30, 1993, the Commission also adopted a final rule delegating to the Chief Accountant or his designee the authority to act on requests for waiver of the Form Nos. 1 and 1-F. Order No. 564, 59 FR 1917 (Jan. 13, 1994); III FERC Stats. & Regs. ¶ 30,990 (1993).

³ The discussion and analysis in the Notice is hereby incorporated by reference in this order.

¹ 58 FR 40606 (July 29, 1993); IV FERC Stats. & Regs. ¶ 32,498 (1993).

Information and Regulatory Affairs of the Office of Management and Budget (Attention: Desk Officer for Federal Energy Regulatory Commission).

III. Background

The Commission, in the exercise of its authority under the Federal Power Act, collects data pertaining to the electric utility industry in the United States.⁴ One of the principal forms used for collection of this information is Form 1, which is submitted annually by some 193 electric utilities and licenses. Form 1 consists of cover pages, four pages of general information and instructions, and 113 pages of schedules incorporating financial and operational information pertaining to the respondent companies. Form 1 also requires that certain financial information be certified by an independent certified public accountant⁵ as conforming to the Commission's Uniform System of Accounts.⁶

Form 1 has heretofore been submitted in a paper or hardcopy format. Currently, Form 1 respondents must file an original and six copies. As noted in the NOPR, the Commission and its staff have been approached by individual electric utilities and state commission staffs inquiring whether the Commission had developed or planned to develop an automated data filing system for Form 1. These parties suggested that such a procedure could yield significant benefits in terms of process simplification and savings of time and expense.

The Commission has concluded that the automation of Form 1 filing will yield significant benefits, including more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design, and overall reduction of reporting burden. Accordingly, in this Final Rule, the Commission is requiring the automation of Form 1 filing.

IV. Summary of Proposal

The NOPR outlined a plan under which the Commission would develop a personal computer (PC) based software package for Form 1 reporting.⁷ The software would be available on standard computer diskettes with instructions and documentation and would be sent to each Form 1 respondent without charge. The program would display the

Form 1, schedule by schedule, on the respondent's PC. The required data could then be manually key-entered on the respondent's PC. The program was intended to permit the respondent to "import" the required data from its PC or mainframe computer directly into the software package, thus avoiding the manual data-entry process. When the data entry process was completed, the respondent, using the software, would be able to produce a data diskette that would be submitted to the Commission, along with the required paper copies.⁸

The Commission noted that it had already initiated the process of procuring the necessary software package for automating Form 1 reporting and stated that, upon receipt of the software package, the Commission staff would test all aspects of the system, including data input, data output, and print capability. The Commission also stated its intention to conduct a thorough field test of the software package with volunteer Form 1 respondents.

V. Development of the Software Program

Development of software for electronic reporting of Form 1 was carried out in accordance with the outline set forth in the NOPR. Working with members of the Commission staff, a software contractor developed an initial program, which was submitted for preliminary testing. The program was thoroughly tested by the staff and numerous adjustments and revisions were adopted. Following completion of these tests, the staff established a working group of volunteer electric utilities to design a field test for the program. The field test was undertaken and successfully completed. The results of the field test confirm that the Form 1 software program is practical, reliable, and suitable for the purpose of electronic filing of Form 1.

VI. Reporting Procedure

The Commission intends to mail the program to each Form 1 respondent in late December 1994 or early January 1995. The program is incorporated in three diskettes, which will be accompanied by a user manual and a cover letter. The cover letter will include (1) an explanation of the principal features of the program, (2) the names and telephone numbers of staff contacts for any respondents requiring assistance, (3) diskette labelling instructions, (4) instructions for filing corrections (resubmissions), and (5)

other pertinent information regarding the filing requirements and procedures. The Form 1 report, which will be incorporated on a single diskette, must be submitted by each respondent on or before April 30 of each year, commencing April 30, 1995. Each respondent will be required to submit two duplicate diskettes, together with the required original and six paper copies.

The Commission is adopting one change in reporting procedure as a result of the adoption of the electronic filing requirement. Heretofore, revisions to Form 1 data were made by means of submitting only those individual pages or schedules requiring correction. In the future, in cases where changes are required, respondents will be required to submit a complete Form 1 report incorporating the necessary changes and corrections. Two new diskettes and an original and six conforming paper copies will be required to be filed. This requirement is necessary in order to facilitate electronic collation of the reported data and to assure the completeness and consistency of reporting.

VII. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act⁹ requires rulemakings to contain either a description and analysis of the effect that a rule will have on small entities or to certify that the rule will not have a significant economic effect on a substantial number of small entities. Because most respondents do not fall within the definition of "small entity,"¹⁰ the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VIII. Information Collection Statement

The regulations of the Office of Management and Budget (OMB)¹¹ require that OMB approve certain information and recordkeeping requirements imposed by an agency. The information collection requirements in this Final Rule are contained in FERC Form No. 1, "Annual Report of Major electric utilities, licensees and others" (OMB approval No. 1902-0021). Since this Final Rule does not involve new information requirements and will have a minimal effect on current information collections, there is no need to obtain

⁴ 16 U.S.C. 825, 825c.

⁵ 18 CFR 41.11. The Commission did not propose any change in the requirements for filing the independent certified public accountant's report.

⁶ 18 CFR Part 101.

⁷ An IBM compatible, DOS-based system.

⁹ 5 U.S.C. 601-612.

¹⁰ See 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632, which defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

¹¹ 5 CFR 1320.14.

OMB approval. However, the Commission is sending a copy to OMB for informational purposes only.

IX. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.¹² No environmental consideration is necessary for the promulgation of a rule that involves information gathering, analysis and dissemination.¹³ The final rule only affects the way in which the Commission gathers information. Accordingly, no environmental consideration is necessary.

X. Effective Date

This final rule is effective February 6, 1995.

List of Subjects

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR 375

Authority delegations (Government agencies), Seals and insignia, Sunshine Act.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,
Secretary.

In consideration of the foregoing, the Commission amends Parts 141, 375 and 385 in Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for Part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. In § 141.1, the heading of paragraph (b) is revised and paragraph (b)(2) is revised to read as follows:

§ 141.1 FERC Form No. 1, Annual report of Major electric utilities, licensees and others.

* * * * *

¹² Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987); FERC Stats. & Regs. Regulations Preambles 1986–90 ¶ 30,783 (1987).

¹³ 18 CFR 380.4(a)(5).

(b) Filing requirements.

* * * * *

(2) *When to file and what to file.* This report form shall be filed on or before April 30 of each year for the previous calendar year. This report form must be filed as prescribed in § 385.2011 of this chapter and as indicated in the general instructions set out in this report form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 of this chapter will be required commencing with report year 1994, due on or before April 30, 1995.

PART 375—THE COMMISSION

3. The authority citation for Part 375 is revised to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

4. Section 375.303 is amended by revising paragraph (l) to read as follows:

§ 375.303 Delegations to the Chief Accountant.

* * * * *

(1) Deny or grant, in whole or part, requests for waiver of the requirements for statements or reports under § 141.1 of this chapter (FERC Form No. 1, Annual Report of Major electric utilities, licensees and others) and § 141.2 of this chapter (FERC Form No. 1–F, Annual report for Nonmajor public utilities and licensees), and of the filing of FERC Form No. 1 on electronic media (§ 385.2011 of this chapter, Procedures for filing on electronic media, paragraphs (a)(6), (c), and (e)).

PART 385—RULES OF PRACTICE AND PROCEDURE

5. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

6. Section 385.2011 is amended by revising the heading, by adding paragraph (a)(6) and by revising paragraphs (c)(3), (e)(1), (e)(2) and (e)(4) to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

(a) * * *

(6) FERC Form No. 1, Annual report of Major electric utilities, licensees and others.

* * * * *

(c) * * *

(3) The electronic media must be accompanied by the traditional prescribed number of paper copies.

* * * * *

(e) *Waiver*—(1) *Filing of petition.* If a natural gas company, electric utility, licensee or other entity does not have and is unable to acquire the computer capability to file the information required to be filed on electronic media, the company may request waiver from the requirement of this part, by filing an original and two copies of a petition. The natural gas company, electric utility, licensee or other entity may renew the waiver if the company can continue to show that it does not have and is unable to acquire the computer capability for electric filing.

(2) *Standard for waiver.* The petition for waiver must show that the natural gas company, electric utility, licensee or other entity does not have the computer capability to file the information required under this section on electronic media and that acquisition of the capability would cause the company severe economic hardship. This waiver may be granted for up to one year.

* * * * *

(4) *Decision on petition.* The Commission or its designee will review a petition for waiver and notify the applicant of its grant or denial. Once the petition is decided, the natural gas company, electric utility, licensee or other entity will have 30 days from the date of notification of the decision to submit any information, in the manner specified by the Commission in the decision on the waiver petition, that was required to be filed while the petition was pending.

[FR Doc. 95–263 Filed 1–4–95; 8:45 am]

BILLING CODE 6717–01–P

18 CFR Part 284

[Docket No. RM93–4–006; Order No. 563–D]

Standards for Electronic Bulletin Boards Required Under Part 284 Of The Commission's Regulations

Issued December 29, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; Order modifying capacity release data sets.

SUMMARY: In response to a proposed modification submitted by the Electronic Bulletin Board Working Group, the Federal Energy Regulatory Commission (Commission) is issuing an order making changes to the capacity release data sets. The Commission's order revises its "Standardized Data